

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CRIMINAL PETITION No.8278 of 2016

ORDER:

This Criminal Petition is filed by the petitioner/accused, under Section 482 of Cr.P.C., to quash the proceedings in C.C.No.187 of 2014 (old C.C.No.673 of 2013), now pending on the file of the X Special Magistrate at Hyderabad, registered for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. The second respondent herein filed a complaint under Section 200 of Cr.P.C. against the petitioner herein for the offence punishable under Section 138 of the Negotiable Instruments Act on 01.08.2013 before the X Special Magistrate at Hyderabad, and it was returned by order dated 01.09.2014 with the following endorsement:

“Complainant present. Accused present. In view of the judgment of Supreme Court of India in Criminal Appeal no.2287 of 2009 dated 01.08.2014 in the case of Dashrath Rupsingh Rathod Vs. State of Maharashtra and another, the Court which had taken cognizance is not having jurisdiction as this Court received subsequently for trial and disposal.

Hence the complaint is hereby returned for filing before the competent Court having jurisdiction within 30 days from this the 1st day of September, 2014.”

3. Thereafter, the complaint was re-presented by the second respondent on 12.11.2015 before the IX Additional Chief Metropolitan Magistrate, Hyderabad, without adhering to the direction of the Court dated 01.09.2014. Thus, the complainant re-presented the returned complaint before the competent Court after one year two months

approximately and on that sole ground, the petitioner sought for quashing of the proceedings.

4. Notice was ordered and the respondent appeared through his counsel Sri Ramachandran Pokala. The arguments of the learned counsel for the petitioner were heard on 03.11.2016 and as there was no representation for the second respondent, the matter was directed to be listed on 08.11.2016 under the caption "For Orders". On 08.11.2016, despite listing the matter under the caption "For Orders", there was no representation for the second respondent and therefore, the matter was again directed to be listed to today under the same caption. Today also there is no representation for the second respondent. Hence, this Court has no other option except to decide the matter.

5. As seen from the record, the second respondent filed a complaint before the IV Additional Chief Metropolitan Magistrate at Hyderabad and the same was returned on 01.09.2014 for presentation before the competent Court in view of the judgment of Supreme Court of India in Criminal Appeal No.2287 of 2009 dated 01.08.2014 in the case of Dashrath Rupsingh Rathod Vs. State of Maharashtra and another, granting time of thirty days from the date of the order. But strangely, the second respondent kept quiet for long time and re-presented the complaint only on 12.11.2015 before the IX Additional Chief Metropolitan Magistrate, Hyderabad, after amendment of the Act. The limitation for filing the complaint is one month from the date of service

of notice demanding payment of the amount covered by the dishonoured cheque. According to the petitioner, the second respondent initially filed a complaint and when it was returned, it was not re-presented within the time, obviously for the reasons best known to him. In such a case, the limitation would not extend automatically in view of the lapse of fourteen months between the return of compliant and its re-presentation before the competent Court. It appears from the record that the respondent did not file any application seeking condonation of delay in re-presenting the returned complaint before the competent Court. In the absence of any such petition, entertainment of the complaint after lapse of fourteen months from the date of its return and re-presentation before the competent Court would not save the limitation and on this ground alone, the proceedings are liable to be quashed.

6. In the result, this Criminal Petition is allowed and the proceedings in C.C.No.187 of 2014 (old C.C.No.673 of 2013) pending on the file of the X Special Magistrate at Hyderabad, are hereby quashed.

Miscellaneous petitions, if any, pending in this Criminal Petition, shall stand closed.

09th November, 2016
Bvv

M. Satyanarayana Murthy, J